

House Study Bill 88 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC DEFENSE BILL)

A BILL FOR

1 An Act establishing certain privileges for military victim
2 advocates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 915.20, subsection 1, Code 2015, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *0a.* "*Military victim advocate*" means a
4 military victim advocate as defined in section 915.20A.

5 Sec. 2. Section 915.20, subsection 2, Code 2015, is amended
6 to read as follows:

7 2. A victim counselor or military victim advocate who is
8 present as a result of a request by a victim shall not be denied
9 access to any proceedings related to the offense.

10 Sec. 3. Section 915.20A, subsection 1, paragraph a, Code
11 2015, is amended to read as follows:

12 *a.* "*Confidential communication*" means information shared
13 between a crime victim and a victim counselor or a military
14 victim advocate within the counseling relationship, and
15 includes all information received by the counselor or advocate
16 and any advice, report, or working paper given to or prepared
17 by the counselor or advocate in the course of the counseling
18 relationship with the victim. "*Confidential information*"
19 is confidential information which, so far as the victim is
20 aware, is not disclosed to a third party with the exception
21 of a person present in the consultation for the purpose
22 of furthering the interest of the victim, a person to whom
23 disclosure is reasonably necessary for the transmission of the
24 information, or a person with whom disclosure is necessary
25 for accomplishment of the purpose for which the counselor or
26 advocate is consulted by the victim.

27 Sec. 4. Section 915.20A, subsection 1, Code 2015, is amended
28 by adding the following new paragraph:

29 NEW PARAGRAPH. *0c.* "*Military victim advocate*" or "*advocate*"
30 means a person who is a member of the national guard or a branch
31 of the armed forces of the United States and who has completed
32 a military victim advocate course provided by a branch of the
33 armed forces of the United States or by the United States
34 department of defense.

35 Sec. 5. Section 915.20A, subsection 1, paragraph c, Code

1 2015, is amended to read as follows:

2 *c.* "*Victim*" means a person who consults a victim counselor
3 or a military victim advocate for the purpose of securing
4 advice, counseling, or assistance concerning a mental,
5 physical, or emotional condition caused by a violent crime
6 committed against the person.

7 Sec. 6. Section 915.20A, subsections 2, 5, and 6, Code 2015,
8 are amended to read as follows:

9 2. A victim counselor or a military victim advocate shall
10 not be examined or required to give evidence in any civil
11 or criminal proceeding as to any confidential communication
12 made by a victim to the counselor or advocate, nor shall a
13 clerk, secretary, stenographer, or any other employee who
14 types or otherwise prepares or manages the confidential
15 reports or working papers of a victim counselor or military
16 victim advocate be required to produce evidence of any such
17 confidential communication, unless the victim waives this
18 privilege in writing or disclosure of the information is
19 compelled by a court pursuant to subsection 7. Under no
20 circumstances shall the location of a crime victim center or
21 the identity of the victim counselor or the military victim
22 advocate be disclosed in any civil or criminal proceeding.

23 5. The privilege under this section does not apply in
24 matters of proof concerning the chain of custody of evidence,
25 in matters of proof concerning the physical appearance of
26 the victim at the time of the injury or the counselor's or
27 advocate's first contact with the victim after the injury, or
28 where the counselor or advocate has reason to believe that the
29 victim has given perjured testimony and the defendant or the
30 state has made an offer of proof that perjury may have been
31 committed.

32 6. The failure of a counselor or advocate to testify due to
33 this section shall not give rise to an inference unfavorable to
34 the cause of the state or the cause of the defendant.

35 Sec. 7. Section 915.20A, subsection 8, paragraphs a, c, and

1 d, Code 2015, are amended to read as follows:

2 a. The court may require the counselor or advocate from
3 whom disclosure is sought or the victim claiming the privilege,
4 or both, to disclose the information in chambers out of the
5 presence and hearing of all persons except the victim and any
6 other persons the victim is willing to have present.

7 c. If the court determines that certain information may be
8 subject to disclosure, as provided in subsection 7, the court
9 shall so inform the party seeking the information and shall
10 order a subsequent hearing out of the presence of the jury,
11 if any, at which the parties shall be allowed to examine the
12 counselor or advocate regarding the information which the court
13 has determined may be subject to disclosure. The court may
14 accept other evidence at that time.

15 d. At the conclusion of a hearing under paragraph "c",
16 the court shall determine which information, if any, shall be
17 disclosed and may enter an order describing the evidence which
18 may be introduced by the moving party and prescribing the line
19 of questioning which may be permitted. The moving party may
20 then offer evidence pursuant to the court order. ~~However, no A~~
21 victim counselor or military victim advocate is not subject to
22 exclusion under rule of evidence 5.615.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill establishes certain privileges for military victim
27 advocates.

28 Except in certain specified circumstances, current law
29 provides that a victim counselor is privileged from examination
30 and is not required to give evidence in civil or criminal
31 proceedings relating to confidential communications between a
32 victim of a violent crime and the victim counselor. The bill
33 provides the same privilege to military victim advocates, as
34 defined in the bill, provided that the advocate has completed a
35 military victim advocate course. The bill also provides that

S.F. _____ H.F. _____

1 a military victim advocate shall not be denied access to any
2 proceedings related to an offense if the advocate's presence is
3 requested by the victim of the offense.